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12 Proposed Attorneys for Chapter 11 Debtors and
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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SAN FERNANDO VALLEY DIVISION

12 In re
13 Irwin Naturals *et al.*,
14 Debtors and Debtors
15 in Possession.

1 Case No. 1:24-bk-11323-VK
2 Chapter 11
3 (Jointly Administered with:
4 Case Nos. 1:24-bk-11324-VK, 1:24-bk-11325,
5 and 1:24-bk-11326-VK)

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Affects Irwin Naturals
 Affects Irwin Naturals Inc.
 Affects 5310 Holdings, LLC
 Affects DAI US HoldCo Inc.
 Affects All Debtors

**EMERGENCY MOTION FOR ENTRY OF
INTERIM AND FINAL ORDERS: (I)
AUTHORIZING THE DEBTORS TO PAY
CERTAIN PREPETITION CLAIMS OF
CRITICAL VENDORS; (II)
AUTHORIZING FINANCIAL
INSTITUTIONS TO HONOR AND
PROCESS RELATED CHECKS AND
TRANSFERS; AND (III) GRANTING
RELATED RELEIF**

*[Declaration of Klee Irwin in support of first
day motions filed concurrently herewith]*

Hearing:

Date: August 16, 2024
Time: 1:30 p.m.
Place: Courtroom 301
21041 Burbank Blvd
Woodland Hills, CA 91367

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1 **TO THE HONORABLE VICTORIA S. KAUFMAN, UNITED STATES BANKRUPTCY**
2 **JUDGE, THE UNITED STATES TRUSTEE, AND ALL PARTIES-IN-INTEREST HEREIN:**

3 Irwin Naturals, a Nevada corporation and the chapter 11 debtor and debtor in possession
4 herein (the “Debtor” or “Irwin Nevada”)¹ hereby submits this motion (the “Motion for entry of
5 interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**
6 (respectively, the “Interim Order” and the “Final Order”), under sections 105(a), 363(b),
7 503(b)(1)(A), 503(b)(9), 546(c), 1107(a) and 1108 of title 11 of the United States Code (the
8 “Bankruptcy Code”) and rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the
9 “Bankruptcy Rules”), (i) authorizing, but not directing, the Debtor, in its sole discretion, to pay, in
10 the ordinary course of business, the prepetition claims of critical vendors identified by Debtor in
11 Exhibit C hereto (the “Critical Vendors,” whose claims shall be identified herein collectively as the
12 “Critical Vendor Claims”), subject to the terms and conditions described herein, in an aggregate
13 amount not to exceed \$3,512,281.98; (ii) authorizing financial institutions to honor and process
14 related checks and transfers; and (iii) granting certain related relief.

15 As set forth more fully below, the Debtor’s primary supplier, Robinson Pharma (“RP”),
16 manufactures approximately 90% of its products. The Debtor pays RP approximately \$35 million a
17 year and is on thirty (30) day terms with RP. In the ordinary course of business, the Debtor receives
18 inventory from RP on an almost daily basis with invoices generated weekly. The Debtor also pays
19 RP weekly on 30 day terms. If the Debtor does not continue to pay RP in the same manner with
20 which it did pre-petition, RP will stop supplying to the Debtor. In fact, RP has already ceased
21 supplying post-petition to the Debtor pending payment of the invoice that is due this week. The
22 Debtor’s customers, among others, include companies such as Costco Canada, Costco US, Walmart,
23 CVS, Sprouts, Whole Foods, Riteaid, Walgreens and Amazon. If the Debtor misses a delivery date
24 to any of the aforementioned customers, the Debtor will lose their business. There are no
25 exceptions. The Debtor has, in the past, attempted to find an alternate supplier but has not been

26
27 ¹ Orders authorizing the joint administration of the Debtor’s chapter 11 case and three affiliates
28 (Irwin Naturals, Inc., Case No. 1:24-bk-11324-VK, 5310 Holdings, LLC, Case No. 1:24-bk-11325-
VK, and DAI US HoldCo Inc., Case No. 1:24-bk-11326-VK) were entered on August 14, 2024.
This motion only affects the Irwin Nevada debtor which is the operating company.

1 successful. While RP is the Debtor's largest supplier, the Debtor is not RP's largest customer and
2 RP is willing to lose the Debtor's business. The Debtor cannot even go one more week without
3 paying RP on its pre-petition claim as the Debtor has delivery deadlines that it must meet for its
4 customers – including a particularly large Costco order in the next two weeks. While the Debtor
5 understands and acknowledges that RP's pre-petition claim of \$3,110,585.30 seems high, it is only
6 one month of invoices, it is well within the average of what the Debtor pays RP monthly, and the
7 Debtor proposes to pay it in the ordinary course of business (i.e., over the next four weeks). There is
8 no possibility of the Debtor's business surviving without RP.

9 The other two critical vendors are transportation and warehousing companies, and each of
10 them has warehouseman and other lien rights in the Debtor's inventory currently held in their
11 respective warehouses and trucks. TLS Transportation Inc. is owed approximately \$24,000 for
12 logistics and approximately \$180,000 for warehousing. Coast Warehouse is owed \$186,950.02 and
13 Coast 3PL is owed \$10,746.66. Both TLS and Coast have ceased providing services to the Debtor
14 pending the result of this Motion. These two companies provide the Debtor with the majority of its
15 logistics and warehousing, and both companies are in possession of the Debtor's inventory.

16 This Motion is based upon these moving papers, the concurrently filed declaration of Klee
17 Irwin (the "First Day Declaration"), the records and pleadings in this case, the arguments and
18 representations of counsel, and any oral or documentary evidence presented at or prior to the time of
19 the hearing.

20 **I. JURISDICTION AND VENUE**

21 The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This
22 is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper before this Court
23 pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are
24 sections 105(a), 363(b), 503(b)(1)(A), 503(b)(9), 546(c), 1107(a), and 1108 of the Bankruptcy Code.
25 Such relief is warranted under Rules 6003 and 6004 of the Bankruptcy Rules.

26 **II. BACKGROUND FACTS**

27 On August 9, 2024 (the "Petition Date"), the Debtor filed a voluntary petition for relief under
28 Chapter 11 of the Bankruptcy Code. The Debtor is authorized to operate its business and manage its

1 property and affairs as a debtor in possession pursuant to sections 1107(a) and 1108 of the
2 Bankruptcy Code. As of the filing of this Motion, no trustee, examiner, or committee has been
3 appointed.

4 The Debtor, Irwin Naturals (“Irwin Nevada” or the “Debtor”) together with its affiliates
5 identified in footnote 1 above (collectively, the “Debtors”) operate a nutraceutical business that has
6 operated successfully for most of its history since its inception in 1994. Irwin Naturals® products
7 are distributed in more than 100,000 retail locations, including health food stores such as Whole
8 Foods, along with mass-market retailers such as Costco, Walmart, and CVS. The Debtors’ annual
9 gross revenue for 2023 was \$91 million.

10 Additional information detailing the Debtors’ operations and the circumstances leading to the
11 commencement of their chapter 11 cases case are described in greater detail in the First Day
12 Declaration, which is fully incorporated into this Motion by this reference.

13 **III. RELIEF REQUESTED**

14 By this Motion, the Debtor seeks entry of an order authorizing but not directing the Debtor to
15 pay, in its sole discretion subject to the limitations described herein, Critical Vendor Claims (or a
16 portion thereof) in the ordinary course of business. A list of the individual critical vendors is
17 attached hereto as **Exhibit C**.

18 As set forth herein, the Debtor will condition the payment of individual Critical Vendor
19 Claims on an agreement of the Critical Vendor to continue supplying goods or services to the Debtor
20 on the same or better terms such Critical Vendors offered the Debtor immediately prior to the
21 Petition Date or pursuant to such other trade practices and programs that are favorable to the Debtor.
22 The Debtor reserves the right to negotiate new, more favorable trade terms with any Critical Vendor
23 as a condition of payment of any Critical Vendor Claim. The Debtor seeks authority to pay Critical
24 Vendor Claims in an aggregate amount not to exceed \$3,512,281.98 which is the total amount of
25 existing invoices issued by the Critical Vendors listed in Exhibit C as of the Petition Date. The
26 Debtor proposes to pay these Critical Vendor Claims when funds are available as set forth in the
27 cash collateral budget over the next four weeks in the ordinary course of business, and pursuant to
28 any interim or final order entered on this Motion.

1 The Debtor also requests that the Court authorize and direct the Debtor's banks and financial
2 institutions to receive, process, honor, and pay all pre-petition and post-petition checks and fund
3 transfers on account of obligations owed to the Critical Vendors and authorize the Debtor's banks
4 and financial institutions to rely on the representations of the Debtor as to which checks and fund
5 transfers should be honored and paid in respect of such obligations, provided that sufficient funds are
6 on deposit in the applicable accounts to cover such payments.

7 **IV. THE CRITICAL VENDORS**

8 **A. Payment of the Critical Vendor Claims is Essential to the Debtor's Continued**
9 **Operations**

10 The Debtor's business relies on continuing access to and relationships with its Critical
11 Vendors. By the Motion, and as set forth in Exhibit C, the Debtor seeks approval to pay three
12 Critical Vendors: (1) Robinson Pharma ("RP") in the amount of \$3,110,585.30; (2) Coast
13 Warehouse in the amount of \$186,950.02 and Coast 3PL in the amount of \$10,746.66; and (3) TLS
14 Transportation Co. ("TLS") in the amount of \$204,000. Each of these vendors and service
15 providers are critical to the Debtor's operations and the preservation of the value of the bankruptcy
16 estate. In total, the Debtor believes it owes approximately \$3,512,281.98 to these Critical Vendors,
17 which the Debtor proposes to pay in the next four weeks as set forth in its budget attached as Exhibit
18 1 to the First Day Declaration. These are all ordinary course payments and represent invoices
19 incurred in the last thirty (30) days.

20 Robinson Pharma: While the Debtor formulates all of its products in-house, it relies on
21 Robinson Pharma to provide upwards of 90% of the product components and ingredients needed and
22 used to create the Debtor's products – and RP creates the final product. Simply put, the Debtor
23 cannot operate post-petition without an uninterrupted and steady stream of product from Robinson
24 Pharma, and Robinson Pharma will not ship the Debtor product on terms post-petition unless its
25 Critical Vendor Claim is paid in full. The Debtor cannot replace Robinson Pharma and obtain the
26 necessary product from another vendor. The Debtor has sought a back-up replacement for Robinson
27 Pharma several times in the past and was never successful, due to, among other things, a
28 technological issue that Robinson Pharma uniquely resolves. In fact, Robinson Pharma has halted

1 shipments to the Debtor as of August 13, 2024 and is conditioning resumption of shipments of
2 product to the Debtor on approval of the Motion and payment of its outstanding invoices in the
3 ordinary course of business (including the invoice that is currently due this week). Without product
4 from Robinson Pharma, the Debtor will not be able to create product post-petition, which will result
5 in its inability to stock the shelves at its major customers including, but not limited to, Walmart,
6 Costco, CVS, Whole Foods and others, which retailers will then “blacklist” the Debtor and no longer
7 sell the Debtor’s products. This result would be devastating to the Debtor’s business and would
8 likely result in the cessation of business operations.

9 In addition to critical vendor status, a large portion of the Robinson Pharma claim is subject
10 to: (i) reclamation under section 546(c) of the Bankruptcy Code (as of the Petition Date the Debtor
11 had \$2,419,343.87 of product on hand from Robinson Pharma which it received within 45 days of
12 the Petition Date), and (ii) payment as an administrative claim under section 503(b)(9) of the
13 Bankruptcy Code (within 20 days of the Petition Date the Debtor received \$1,652,343.87 of product
14 from Robinson Pharma in the ordinary course of business). See, **Exhibit D** hereto for detail on the
15 Robinson Pharma product delivered to the Debtor during the 20 days pre-petition,, and still in the
16 Debtor’s possession on the petition date.

17 The Warehouse Logistics Providers: Two logistics providers who warehouse and transport
18 the vast majority of the Debtor’s inventory have asserted possessory warehouseman’s liens against
19 the Debtor’s inventory stored in their warehouse facilities and in their trucks. The first is Coast
20 Warehouse / Coast 3PL (collectively, “Coast”) and the second is TLS Transportation (“TLS”). Both
21 Coast and TLS warehouse and transport inventory of the Debtor, and each of them assert possessory
22 warehouseman’s liens against such inventory. Both Coast and TLS have ceased providing
23 warehousing and transportation services to the Debtor pending approval of this Motion and
24 assurances that their post-petition invoices will be paid in the ordinary course of business. It is
25 critical to the Debtor’s business to have access to and be able to ship this inventory to its customers.
26 Both Coast and TLS will not release the Debtor’s inventory, and their possessory liens, unless the
27 Motion is approved, and payment of their prepetition claims are provided for.

1 TLS is owed approximately \$24,000 for logistics and approximately \$180,000 for
2 warehousing. Coast Warehouse is owed \$186,950.02 and Coast 3PL is owed \$10,746.66. Both TLS
3 and Coast have ceased providing services to the Debtor pending the result of this Motion.

4 In light of the foregoing, the Debtor requests authorization to pay the Critical Vendor Claims,
5 subject to the criteria below, because payment of such claims is essential to achieve the Debtor's
6 chapter 11 objectives, continue operations and maximize value for all stakeholders.

7 **B. Proposed Terms and Conditions for Payment of Critical Vendor Claims**

8 In return for paying the Critical Vendor Claims, the Debtor will use commercially reasonable
9 efforts to require the applicable Critical Vendors to continue supplying goods and services to the
10 Debtor on trade terms that are the same or better than the trade terms that existed immediately prior
11 to the Petition Date (the "Customary Trade Terms").

12 The Debtor also reserves the right to negotiate terms better than the Customary Trade Terms
13 as a condition to payment of any Critical Vendor Claim (the "Negotiated Trade Terms") to the extent
14 the Debtor determines, in its reasonable business judgment, that such terms are necessary to procure
15 essential goods and services or are otherwise in the best interests of the Debtor's estate.

16 The Debtor may elect to condition the payment of Critical Vendor Claims upon such party's
17 written agreement (each, a "Vendor Agreement") to continue supplying services on Negotiated
18 Trade Terms.

19 Additionally, the Debtor requests that, if a Critical Vendor accepts payment pursuant to the
20 Interim and Final Orders after agreeing to provide services on Customary Trade Terms or Negotiated
21 Trade Terms, and thereafter does not continue to provide services on such terms (regardless of
22 whether a Vendor Agreement has been executed), (i) any payment on account of a Critical Vendor
23 Claim may be deemed, in the Debtor's reasonable business judgment, to be an improper post-
24 petition transfer and, therefore, recoverable by the Debtor in cash upon written request, and (ii) upon
25 recovery of the payment by the Debtor, the Critical Vendor Claim shall be reinstated as if the
26 payment had not been made. If there exists an outstanding post-petition balance due from the Debtor
27 to such Critical Vendor, the Debtor may elect to recharacterize and apply any payment made
28 pursuant to the relief requested by this Motion to such outstanding post-petition balance, and such

1 Critical Vendor will be required to repay the Debtor such paid amounts that exceed the post-petition
2 obligations then outstanding without the right of any setoffs, claims, provisions for payment of any
3 claims, or otherwise.

4 **V. BASIS FOR RELIEF**

5 **A. The Court Should Authorize the Debtor to Pay the Critical Vendor Claims Pursuant**
6 **to Sections 105(a) and 363 of the Bankruptcy Code**

7 The Court may authorize the Debtor to pay the Critical Vendor Claims, in its sole discretion,
8 pursuant to section 363 of the Bankruptcy Code. Section 363(b)(1) of the Bankruptcy Code provides
9 that a debtor “after notice and a hearing, may use, sell, or lease, other than in the ordinary course of
10 business, property of the estate” 11 U.S.C. § 363(b)(1). Under this section, a court may
11 authorize a debtor to pay certain prepetition claims where a debtor demonstrates a sound business
12 justification for such relief. *See In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y.
13 1989) (finding that a sound business justification existed to justify payment of certain claims).

14 Additionally, section 105(a) of the Bankruptcy Code empowers a bankruptcy court to “issue
15 any order, process, or judgment that is necessary or appropriate to carry out the provisions of this
16 title.” 11 U.S.C. § 105(a). Bankruptcy courts have invoked the equitable power of section 105 of the
17 Bankruptcy Code to authorize the post-petition payment of prepetition claims of certain vendors,
18 where such payment is necessary to preserve the value of a debtor’s estate. *See, e.g., Tropical*
19 *Sportswear Int’l Corp.*, 320 B.R. 15, 20 (Bankr. M.D. Fla. 2005) (“Bankruptcy courts recognize that
20 section 363 is a source for authority to make critical vendor payments, and section 105 is used to fill
21 in the blanks.”). Courts have likewise acknowledged that “[u]nder [section] 105, the court can permit
22 pre-plan payment of a prepetition obligation when essential to the continued operation of the
23 debtor.” *In re NVR L.P.*, 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) (citing *In re Ionosphere Clubs,*
24 *Inc.*, 98 B.R. 174, 177 (Bankr. S.D.N.Y. 1989)); *see In re Just for Feet, Inc.*, 242 B.R. 821, 825 (D.
25 Del. 1999) (citing *In re Penn Central Transp. Co.*, 467 F.2d 100, 102 n.1 (3d Cir. 1972)) (holding
26 that the court is authorized under section 105(a) of the Bankruptcy Code to allow immediate
27 payment of prepetition claims of vendors found to be critical to the debtor’s continued operation).

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1 In a long line of well-established cases, federal courts consistently have permitted post-
2 petition payment of prepetition obligations where necessary to preserve or enhance the value of a
3 debtor's estate for the benefit of all creditors. *See, e.g., Miltenberger v. Logansport, C. & S. W. Ry.*
4 *Co.*, 106 U.S. 286, 312 (1882) (payment of pre-receivership claim permitted to prevent "stoppage of
5 [crucial] business relations"); *In re Lehigh & New Eng. Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981)
6 (holding that "if payment of a claim which arose prior to [the commencement of the bankruptcy
7 case] is essential to the continued operation of the . . . [business] during [the bankruptcy case],
8 payment may be authorized even if it is made out of [the] corpus"); *Dudley v. Mealey*, 147 F.2d 268,
9 271 (2d Cir. 1945) (extending doctrine for payment of prepetition claims beyond railroad
10 reorganization cases).

11 This legal principle—known as the "doctrine of necessity"—functions in chapter 11 cases as
12 a mechanism by which a bankruptcy court can exercise its equitable power to allow payment of
13 critical prepetition claims not explicitly authorized by the Bankruptcy Code. *See Just for Feet*, 242
14 B.R. at 826 (finding that "to invoke the necessity of payment doctrine, a debtor must show that
15 payment of the prepetition claims is critical to the debtor's [continued operation]."); *In re Columbia*
16 *Gas Sys., Inc.*, 136 B.R. 930, 939 (Bankr. D. Del. 1992) (recognizing that "[i]f payment of a
17 prepetition claim is essential to the continued operation of [the debtor], payment may be
18 authorized"); *In re Boston & Me. Corp.*, 634 F.2d 1359, 1382 (1st Cir. 1980) (recognizing the
19 existence of a judicial power to authorize trustees to pay claims for goods and services that are
20 indispensably necessary to the debtors' continued operation). The doctrine is frequently invoked
21 early in a bankruptcy case, particularly in connection with those Bankruptcy Code sections that
22 relate to payment of prepetition claims. In one case, the court indicated its agreement with "the
23 principle that a bankruptcy court may exercise its equity powers under section 105(a) to authorize
24 payment of prepetition claims where such payment is necessary 'to permit the greatest likelihood of .
25 . . payment of creditors in full or at least proportionately.'" *In re Structurelite Plastics Corp.*, 86 B.R.
26 922, 931 (Bankr. S. D. Ohio 1988).

27 While the payment of pre-petition obligations to the Critical Vendors may violate ordinary
28 statutory priorities, Courts have approved "critical vendor orders that allow payment of essential

1 suppliers' prepetition invoices". *Czyzewski v. Jevic Holding Corp.* 137 S.Ct. 973, 985 (2017).
2 Violating ordinary statutory priorities by authorizing the payment of the prepetition claims may be
3 necessary to "enable a successful reorganization and even make disfavored creditors better off." *Id.*
4 (citing *In re Kmart Corp.* 359 F.3d 866, 872 (7th Cir. 2004)). The Ninth Circuit Court of Appeals has
5 also found that for rehabilitation of a company, prepetition debts can be treated unequally when
6 necessary. *In re Adams Apple*, 829 F.2d 1484, 1490 (9th Cir. 1987).

7 The Debtor believes the goods and services provided by the Critical Vendors are necessary to
8 prevent any calamitous interruptions to the Debtor's operations during the chapter 11 case. Robinson
9 Pharma is the sole source for upwards of 90% of the Debtor's finished manufactured product.
10 Robinson Pharma cannot be replaced. Robinson Pharma will not ship the Debtor post-petition on
11 terms unless the Motion is approved and provides for payment of its claim. Moreover, as set forth
12 above, significant portions of the Robinson Pharma claim are allowed and may be paid under
13 sections 503(b)(9) and 546(c) of the Bankruptcy Code. Likewise, the logistics providers discussed
14 above hold significant inventory of the Debtor and assert possessory warehouseman liens against
15 this inventory, and will not agree to release or continue to store such inventory unless the Motion is
16 approved and provides for payment of their claims. Only payment of these claims at this time will
17 permit the Debtor to avoid unanticipated interruptions, delays or shutdowns in its operations. As
18 discussed above, payment of the prepetition claims of the Critical Vendors is necessary for the
19 rehabilitation of the Debtor since the goods supplied by the Critical Vendors account for nearly 90%
20 of the Debtor's total sales, without which the Debtor will likely not be able to successfully
21 reorganize. With the Courts approval for the payment of prepetition obligations to the Critical
22 Vendors, the Debtor will be able to obtain the products and inventory needed to enable a successful
23 reorganization.

24 Furthermore, the retention or reinstatement of Customary Trade Terms will enable the
25 Debtor to maximize the value of its business, for the benefit of all stakeholders.

26 Similar relief has become a relatively common practice in business chapter 11 cases,
27 including the following unreported cases in California: *In re Marchey Group, Inc.*, 1-24-bk-10326-
28 MB (Bankr. C.D. Cal. 2024) [Docket No. 21]; *In re Fall Line Tree Service, Inc.*, 20- 21548 (Bankr.

1 E.D. Cal. 2020) [Docket No. 73] (Subchapter V Case); *In re Shiekh Shoes, LLC*, 2:17-bk-24626-VZ
2 (Bankr. C.D. Cal. 2017) [Docket No. 73]; *In re HDOS Enterprises*, 2013 WL 12568280 (Bankr.
3 C.D. Cal. July 26, 2013); *In re Evergreen Oil, Inc.*, 2013 WL 1702279 (Bankr. C.D. Cal. April 9,
4 2013); *In re American Suzuki Motor Corporation*, 2012 WL 6650099 (Bankr. C.D. Cal. Nov. 5,
5 2012); *In re ISE Corporation*, 2012 WL 113200 (Bankr. S.D. Cal. Jan. 5, 2012); *In re Majestic
6 Towers, Inc.*, 2011 WL 4520408 (Bankr. C.D. Cal. Sept. 21, 2011); *In re Aeolus Down Inc.*, 2011
7 WL 5509888 (Bankr. C.D. Cal. Nov. 3, 2011).

8 Accordingly, the preservation and protection of the Debtor's business through ongoing
9 relationships with the Critical Vendors provides a sufficient business justification for payment of the
10 Critical Vendor Claims, even if such payments were deemed to be outside the ordinary course of
11 business. *See, Ionosphere Clubs*, 98 B.R. at 17. The Debtor, therefore, seeks authorization under
12 sections 105(a) and 363(b) of the Bankruptcy Code to pay the Critical Vendor Claims.

13 **B. The Court Should Authorize Payment of the Critical Vendor Claims as a Valid
14 Exercise of the Debtor's Fiduciary Duties Under Sections 1107(a) and 1108 of the
15 Bankruptcy Code**

16 Authority for the relief requested herein may also be found in sections 1107(a) and 1108 of
17 the Bankruptcy Code. The Debtor, operating its business as a debtor in possession under sections
18 1107(a) and 1108, is a fiduciary "holding the bankruptcy estate[s] and operating the business[es] for
19 the benefit of [their] creditors and (if the value justifies) equity owners." *In re CoServ*, L.L.C., 273
20 B.R. 487, 497 (Bankr. N.D. Tex. 2002). Implicit in the duties of a chapter 11 debtor in possession is
21 the duty "to protect and preserve the estate, including an operating business's going-concern value."
22 *Id.*

23 Courts have noted that there are instances in which a debtor in possession can fulfill its
24 fiduciary duty "only . . . by the preplan satisfaction of a pre-petition claim." *Id.* The *CoServ* court
25 specifically noted that preplan satisfaction of prepetition claims would be a valid exercise of a
26 debtor's fiduciary duty when the payment "is the only means to effect a substantial enhancement of
27 the estate," and also when the payment was to "sole suppliers of a given product." *Id.* at 497-98. The
28

1 court provided a three-pronged test for determining whether a preplan payment on account of a
2 prepetition claim was a valid exercise of a debtor's fiduciary duty:

3
4 First, it must be critical that the debtor deal with the claimant. Second,
5 unless it deals with the claimant, the debtor risks the probability of harm,
6 or, alternatively, loss of economic advantage to the estate or the debtor's
7 going concern value, which is disproportionate to the amount of the
8 claimant's pre-petition claim. Third, there is no practical or legal
9 alternative by which the debtor can deal with the claimant other than by
10 payment of the claim.

11 *Id.*

12 Here, the Debtor's request for authorization to pay the Critical Vendor Claims, as set forth
13 herein, meets each element of the *CoServ* court's standard. As described above, the Debtor believes
14 that, unless the Critical Vendor Claims are paid, Critical Vendors will refuse (and continue to
15 refuse), or be unable, to provide services to the Debtor on a post-petition basis, thereby creating the
16 significant risk that the Debtor will experience an interruption to or shut down of its operations. Any
17 such interruption would diminish, even possibly destroy, estate value and frustrate the Debtor's
18 chapter 11 efforts. The Debtor submits that the harm and economic disadvantage that would stem
19 from the failure of the Critical Vendors to provide the required goods and services necessary to
20 operate the Debtor's business is wholly disproportionate to the amount of the Critical Vendor
21 Claims.

22 Finally, the Debtor has examined other options short of seeking authority to pay the Critical
23 Vendor Claims and has determined that, in order to avoid an interruption to its business operations,
24 there exists no practical alternative. Therefore, the Debtor can only meet its fiduciary duty as a
25 debtor in possession under sections 1107(a) and 1108 of the Bankruptcy Code if authorized to pay
26 the Critical Vendor Claims, in its discretion, as provided herein and in the Interim and Final Orders.

27 Accordingly, for all of the foregoing reasons, the Debtor submits that cause exists for
28 granting the relief requested herein.

29 **C. Processing of Checks and Electronic Fund Transfers Should be Authorized**

30 The Debtor has or otherwise will generate sufficient funds to pay any amounts described in
31 this Motion in the ordinary course of business by virtue of expected cash flows from ongoing

1 business operations. In addition, under the Debtor's existing cash management system, the Debtor
2 can readily identify checks or wire transfer requests relating to an authorized payment in respect of
3 the Critical Vendor Claims. Accordingly, the Debtor believes there is minimal risk that checks or
4 wire transfer requests that the Court has not authorized will be inadvertently made. Therefore, the
5 Debtor respectfully requests that the Court authorize all applicable financial institutions, when
6 requested by the Debtor, to receive, process, honor, and pay any and all checks or wire transfer
7 requests in respect of the relief requested in this Motion.

8 **D. The Orders Should Be Effective Immediately**

9 Bankruptcy Rule 6003 provides that the relief requested in this Motion may be granted if the
10 "relief is necessary to avoid immediate and irreparable harm." Fed. R. Bankr. P. 6003. The Debtor
11 submits that for the reasons already set forth herein, the relief requested in this Motion is necessary
12 to avoid immediate and irreparable harm to the Debtor.

13 The Debtor further seeks a waiver of any stay of the effectiveness of the order approving this
14 Motion. Pursuant to Bankruptcy Rule 6004(h): "[a]n order authorizing the use, sale, or lease of
15 property other than cash collateral is stayed until the expiration of fourteen (14) days after entry of
16 the order, unless the court orders otherwise." As set forth above, the relief requested herein is
17 essential to prevent irreparable damage to the Debtor's otherwise profitable operations. Thus, the
18 relief sought in this Motion is appropriate under these circumstances.

19 **VI. NOTICE**

20 The Debtor will serve this Motion, the concurrently filed notice of hearing and the First Day
21 Declaration on the following parties or, in lieu thereof, to their counsel, if known: (a) the Office of
22 the United States Trustee; (b) the largest twenty unsecured creditors appearing on the list filed in
23 accordance with Bankruptcy Rule 1007(d) by the Debtor; (c) all known secured creditors; and (d)
24 parties that file with the Court and serve upon the Debtor requests for notice of all matters in
25 accordance with Bankruptcy Rule 2002. In the event that the Court grants the relief requested by the
26 Motion, the Debtor shall provide notice of the entry of the Interim Order and Final Order upon each
27 of the foregoing parties and any other parties in interest as the Court directs. The Debtor submits that
28 such notice is sufficient, and that no other or further notice need be given.

1 **VII. RESERVATION OF RIGHTS**

2 Nothing contained herein is or should be construed as: (i) an admission as to the validity of
3 any claim against the Debtor or the existence of any lien against the Debtor's assets; (ii) a waiver of
4 the Debtor's rights to dispute any claim or lien on any grounds; (iii) a promise to pay any claim; (iv)
5 an implication or admission that any particular claim would constitute an allowed claim; (v) an
6 assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the
7 Bankruptcy Code; or (vi) a limitation on the Debtor's right under section 365 of the Bankruptcy
8 Code to assume or reject any executory contract with any party subject to the Interim and Final
9 Orders. Nothing contained in the Interim and Final Orders shall be deemed to increase, decrease,
10 reclassify, elevate to an administrative expense status, or otherwise affect any claim to the extent it is
11 not paid.

12 **VIII. CONCLUSION**

13 Based upon the foregoing, the Debtor respectfully requests that the Court enter the proposed
14 Interim Order and the proposed Final Order, substantially in the form attached hereto, granting the
15 relief requested in this Motion and such other and further relief as may be just and proper.

17 DATED: August 15, 2024

Respectfully submitted,

18 BG Law LLP

19 By: /s/ Susan K. Seflin _____
20 David M. Poitras
21 Susan K. Seflin
22 Jessica S. Wellington
23 Proposed Attorneys for Chapter 11
24 Debtor and Debtor in Possession

EXHIBIT A

1 DAVID M. POITRAS – Bar No. 141309
2 SUSAN K. SEFLIN - Bar No. 213865
3 JESSICA S. WELLINGTON - Bar No. 324477
4 BG LAW LLP
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9 Email: dpoitras@bg.law
10 sseflin@bg.law
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12 Proposed Attorneys for Chapter 11 Debtors and
13 Debtors in Possession

14 **UNITED STATES BANKRUPTCY COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**
16 **SAN FERNANDO VALLEY DIVISION**

17 In re

18 Irwin Naturals *et al.*,

19 Debtors and Debtors
20 in Possession.

21 Case No. 1:24-bk-11323-VK

22 Chapter 11

23 (Jointly Administered with:

24 Case Nos. 1:24-bk-11324-VK, 1:24-bk-11325,
25 and 1:24-bk-11326-VK)

26

27 Affects Irwin Naturals
28 Affects Irwin Naturals Inc.
 Affects 5310 Holdings, LLC
 Affects DAI US HoldCo Inc.
 Affects All Debtors

29 **INTERIM ORDER: (I) AUTHORIZING
30 THE DEBTORS TO PAY CERTAIN
31 PREPETITION CLAIMS OF CRITICAL
32 VENDORS; (II) AUTHORIZING
33 FINANCIAL INSTITUTIONS TO HONOR
34 AND PROCESS RELATED CHECKS AND
35 TRANSFERS; AND (III) GRANTING
36 RELATED RELIEF**

37 **Hearing:**

38 Date: August 16, 2024
39 Time: 1:30 p.m.
40 Place: Courtroom 301
41 21041 Burbank Blvd
42 Woodland Hills, CA 91367

1 On the above captioned date and time, the court considered the Emergency Motion for Entry
2 of Interim and Final Orders: (I) Authorizing the Debtor to Pay Certain Prepetition Claims of Critical
3 Vendors; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers;
4 and (III) Related Relief [Docket No. __] (the “Motion”) filed by chapter 11 debtor and debtor in
5 possession Irwin Naturals (the “Debtor”) pursuant to sections 105(a), 363(b), 503(b)(1)(A),
6 503(b)(9), 546(c), 1107(a) and 1108 of title 11 of the United States Code (the “Bankruptcy Code”)
7 and rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).
8 Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in the Motion.
9

10 Based upon the Court’s review of the Motion, the First Day Declaration, the evidentiary
11 record, and argument of counsel; it appearing that this Court has jurisdiction over this matter
12 pursuant to 28 U.S.C. §§ 157 and 1334; it appearing that due and adequate notice of the Motion
13 having been given under the circumstances; and after due deliberation and good cause appearing
14 therefor, based upon findings of fact and conclusions of law stated in open court pursuant to Rule
15 52(a) of the Federal Rules of Civil Procedure, as incorporated into Bankruptcy Rule 7052 and
16 applied to contested matters by Bankruptcy Rule 9014(c),
17

18 IT IS ORDERED THAT:

19 1. The Motion is GRANTED on an interim basis as set forth herein.
20
21 2. The Debtor is authorized, but not directed, in its sole discretion, to honor, pay, or
otherwise satisfy amounts on account of Critical Vendor Claims; provided, however, that such
22 payments shall not exceed \$ _____ in the aggregate, unless otherwise ordered by this Court.
23

24 3. The Debtor is authorized, but not directed, to condition the payment of Critical Vendor
25 Claims upon such Critical Vendor’s agreement (a “Vendor Agreement”) to continue supplying
26 goods and services to the Debtor on trade terms that are the same as, or better than, the terms such
27 Critical Vendors offered the Debtor’s businesses immediately prior to the Petition Date (the
28

1 “Customary Trade Terms”). In the alternative, the Debtor may negotiate trade terms with any
2 Critical Vendor as a condition to payment of any Critical Vendor Claim that vary from the
3 Customary Trade Terms (the “Negotiated Trade Terms”), but only (a) to the extent the Debtor
4 determines, in its reasonable business judgment that such terms are necessary to procure essential
5 services or are otherwise in the best interests of the Debtor’s estate.

6 4. If a Critical Vendor accepts payment pursuant to this Interim Order after agreeing to
7 provide services on Customary Trade Terms or Negotiated Trade Terms, and thereafter does not
8 continue to provide services on such terms (regardless of whether a Vendor Agreement has been
9 executed), then (i) any payment on account of a Critical Vendor Claim may be deemed, in the
10 Debtor’s reasonable business judgment and subject to a determination by the Court, to be an
11 improper post-petition transfer and, therefore, recoverable by the Debtor in cash upon written
12 request, and (ii) upon recovery of the payment by the Debtor, the Critical Vendor Claim shall be
13 reinstated as if the payment had not been made. If there exists an outstanding post-petition balance
14 due from the Debtor to a Critical Vendor, the Debtor may elect to recharacterize and apply any
15 payment made pursuant to this Interim Order to such outstanding post-petition balance, and the
16 Debtor may then take any and all appropriate steps to cause such Critical Vendor to repay payments
17 made to it on account of its prepetition claim to the extent that such payments exceed the post-
18 petition amounts then owing to such Critical Vendor.

21 5. The Debtor is authorized, but not directed, to condition the honoring, payment, or other
22 satisfaction of any Critical Vendor Claim on the execution of a Vendor Agreement, and the Debtor is
23 authorized, but not directed, to enter into such Vendor Agreements when and if the Debtor
24 determines it appropriate, in its business judgment.

26 6. Any Critical Vendor that accepts payment or other form of satisfaction from the Debtor
27 on account of all or a portion of a Critical Vendor Claim pursuant to this Interim Order shall be
28 deemed to (a) agree to the terms and provisions of this Interim Order and (b) have waived, to the

1 extent so paid or satisfied, any and all prepetition claims, of any type, kind, or priority (including any
2 reclamation claim), against the Debtor, its estate, and its assets and properties.

3 7. The banks and financial institutions on which checks were drawn or electronic payment
4 requests were made in payment of the prepetition obligations approved herein are authorized to
5 receive, process, honor, pay and, if necessary, reissue all such checks and electronic payment
6 requests, including prepetition checks and electronic payment and transfer requests that the Debtor
7 reissue or re-requests post-petition, when presented for payment, and all such banks and financial
8 institutions are authorized to rely on the Debtor's designation of any particular check or electronic
9 payment request as approved by this Interim Order.

10 8. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to
11 such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the amount of, basis
12 for, or validity of any claim against the Debtor under the Bankruptcy Code or other applicable non-
13 bankruptcy law; (b) a waiver of the Debtor's or any other party in interest's right to dispute any
14 claim; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that
15 any particular claim is of a type specified or defined in the Motion; (e) a request or authorization to
16 assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy
17 Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on,
18 security interest in, or other encumbrance on property of the Debtor's estate; or (g) a waiver of any
19 claims or causes of action which may exist against any entity under the Bankruptcy Code or any
20 other applicable law. Any payment made pursuant to this Interim Order is not intended and should
21 not be construed as an admission as to the validity of any particular claim or a waiver of the Debtor's
22 right to subsequently dispute such claim.

23 9. The amount of each Critical Vendor's claims set forth in connection with a Vendor
24 Agreement shall be used only for purposes of determining such Critical Vendor's claim under this
25 Interim Order and shall not be deemed a claim allowed by the Court, and the rights of all interested

1 persons to object to the allowance of such claim shall be fully preserved until further order of the
2 Court. Further, signing a Vendor Agreement containing a claim amount for purposes of this Interim
3 Order shall not excuse such Critical Vendor from filing a proof of claim in these cases.

4 10. No claimant who receives payment in full on account of a Critical Vendor Claim is
5 permitted to file or perfect a lien on account of such claim, and any such claimant shall take all
6 necessary action, at its expense, to remove any existing lien relating to such claim.

7 11. Nothing in the Motion or this Interim Order, nor the Debtor's implementation of the
8 relief granted in this Interim Order, shall be deemed to modify or waive any of the Debtor's rights
9 with respect to goods and services requested or received from the Critical Vendors, including the
10 Debtor's rights to (a) cancel a purchase order, (b) decline the acceptance of goods and services, (c)
11 return any defective, nonconforming or unacceptable good, or (d) contest the amount of any invoice
12 or claims, or liens related thereto, on any grounds.

13 12. Notwithstanding the relief granted in this Interim Order, any payment made by the
14 Debtor pursuant to the authority granted herein shall be subject to any order authorizing the Debtor
15 to obtain use of cash collateral.

16 13. The Court finds and determines that the requirements of Bankruptcy Rule 6003 are
17 satisfied and that the relief requested is necessary to avoid immediate and irreparable harm.

18 14. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective and enforceable
19 immediately upon entry hereof.

20 15. The Debtor is authorized to take all actions necessary to implement the relief granted in
21 this Order.

22 16. A hearing to consider entry of an order granting the Motion on a final basis (the "Final
23 Hearing") shall be held on _____, 2024, at ___:___ .m. (prevailing Pacific time). Any
24 objections or responses to the entry of such an order must be filed on or before 4:00 p.m. (prevailing
25 Pacific time) on _____, 2024, and served on (a) proposed counsel to the Debtor, BG Law LLP,
26

1 Attn: David M. Poitras (dpoitras@bg.law) and Susan K. Seflin (sseflin@bg.law) and (b) the Office
2 of the United States Trustee for the Central District of California, 915 Wilshire Blvd., Suite 1850.
3 Los Angeles, California 90017, Attn: Katherine C. Bunker (kate.bunker@usdoj.gov). If no
4 objections or responses are filed and served, this Court may enter a final order without further notice
5 or hearing.

6 17. This Court shall retain jurisdiction with respect to all matters arising from or related to
7 the implementation, interpretation, or enforcement of this Order.
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EXHIBIT B

1 DAVID M. POITRAS – Bar No. 141309
2 SUSAN K. SEFLIN - Bar No. 213865
3 JESSICA S. WELLINGTON - Bar No. 324477
4 BG LAW LLP
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11 jwellington@bg.law

12 Proposed Attorneys for Chapter 11 Debtors and
13 Debtors in Possession

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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SAN FERNANDO VALLEY DIVISION

12 In re
13 Irwin Naturals *et al.*,
14 Debtors and Debtors
15 in Possession.

1 Case No. 1:24-bk-11323-VK
2 Chapter 11
3 (Jointly Administered with:
4 Case Nos. 1:24-bk-11324-VK, 1:24-bk-11325,
5 and 1:24-bk-11326-VK)

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Affects Irwin Naturals
 Affects Irwin Naturals Inc.
 Affects 5310 Holdings, LLC
 Affects DAI US HoldCo Inc.
 Affects All Debtors

**FINAL ORDER: (I) AUTHORIZING THE
DEBTORS TO PAY CERTAIN
PREPETITION CLAIMS OF CRITICAL
VENDORS; (II) AUTHORIZING
FINANCIAL INSTITUTIONS TO HONOR
AND PROCESS RELATED CHECKS AND
TRANSFERS; AND (III) GRANTING
RELATED RELIEF**

Hearing:
Date: August 16, 2024
Time: 1:30 p.m.
Place: Courtroom 301
21041 Burbank Blvd
Woodland Hills, CA 91367

1 On the above captioned date and time, the court considered the Emergency Motion for Entry
2 of Interim and Final Orders: (I) Authorizing the Debtor to Pay Certain Prepetition Claims of Critical
3 Vendors; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers;
4 and (III) Related Relief [Docket No. __] (the “Motion”) filed by Debtor and Debtor in Possession
5 Irwin Naturals (the “Debtor”) pursuant to sections 105(a), 363(b), 503(b)(1)(A), 503(b)(9), 546(c),
6 1107(a) and 1108 of title 11 of the United States Code (the “Bankruptcy Code”) and rules 6003 and
7 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). Unless otherwise
8 defined herein, capitalized terms have the meaning ascribed to them in the Motion. Based upon the
9 Court’s review of the Motion, the First Day Declaration, the evidentiary record, and argument of
10 counsel; it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157
11 and 1334; it appearing that due and adequate notice of the Motion having been given under the
12 circumstances; and after due deliberation and good cause appearing therefor, based upon findings of
13 fact and conclusions of law stated in open court pursuant to Rule 52(a) of the Federal Rules of Civil
14 Procedure, as incorporated into Bankruptcy Rule 7052 and applied to contested matters by
15 Bankruptcy Rule 9014(c),

16 IT IS ORDERED THAT:

- 17 1. The Motion is GRANTED on a final basis as set forth herein.
- 18 2. The Debtor is authorized, but not directed, in its sole discretion, to honor, pay, or
otherwise satisfy amounts on account of Critical Vendor Claims; provided, however, that such
payments shall not exceed \$X in the aggregate, unless otherwise ordered by this Court.
- 21 3. The Debtor is authorized, but not directed, to condition the payment of Critical Vendor
Claims upon such Critical Vendor’s agreement (a “Vendor Agreement”) to continue supplying
goods and services to the Debtor on trade terms that are the same as, or better than, the terms such
Critical Vendors offered the Debtor’s businesses immediately prior to the Petition Date (the
25 “Customary Trade Terms”). In the alternative, the Debtor may negotiate trade terms with any
26 Critical Vendor as a condition to payment of any Critical Vendor Claim that vary from the
27 Customary Trade Terms (the “Negotiated Trade Terms”), but only (a) to the extent the Debtor

28

1 determines, in its reasonable business judgment that such terms are necessary to procure essential
2 services or are otherwise in the best interests of the Debtor's estate.

3 4. If a Critical Vendor accepts payment pursuant to this Final Order after agreeing to
4 provide services on Customary Trade Terms or Negotiated Trade Terms, and thereafter does not
5 continue to provide services on such terms (regardless of whether a Vendor Agreement has been
6 executed), then (i) any payment on account of a Critical Vendor Claim may be deemed, in the
7 Debtor's reasonable business judgment and subject to a determination by the Court, to be an
8 improper post-petition transfer and, therefore, recoverable by the Debtor in cash upon written
9 request, and (ii) upon recovery of the payment by the Debtor, the Critical Vendor Claim shall be
10 reinstated as if the payment had not been made. If there exists an outstanding post-petition balance
11 due from the Debtor to a Critical Vendor, the Debtor may elect to recharacterize and apply any
12 payment made pursuant to this Final Order to such outstanding post-petition balance, and the Debtor
13 may then take any and all appropriate steps to cause such Critical Vendor to repay payments made to
14 it on account of its prepetition claim to the extent that such payments exceed the post-petition
15 amounts then owing to such Critical Vendor.

16 5. The Debtor is authorized, but not directed, to condition the honoring, payment, or other
17 satisfaction of any Critical Vendor Claim on the execution of a Vendor Agreement, and the Debtor is
18 authorized, but not directed, to enter into such Vendor Agreements when and if the Debtor
19 determines it appropriate, in its business judgment.

20 6. Any Critical Vendor that accepts payment or other form of satisfaction from the Debtor
21 on account of all or a portion of a Critical Vendor Claim pursuant to this Final Order shall be
22 deemed to (a) agree to the terms and provisions of this Final Order and (b) have waived, to the extent
23 so paid or satisfied, any and all prepetition claims, of any type, kind, or priority (including any
24 reclamation claim), against the Debtor, its estate, and its assets and properties.

25 7. The banks and financial institutions on which checks were drawn or electronic payment
26 requests were made in payment of the prepetition obligations approved herein are authorized to
27 receive, process, honor, pay and, if necessary, reissue all such checks and electronic payment
28 requests, including prepetition checks and electronic payment and transfer requests that the Debtor

1 reissue or re-requests post-petition, when presented for payment, and all such banks and financial
2 institutions are authorized to rely on the Debtor's designation of any particular check or electronic
3 payment request as approved by this Final Order.

4 8. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to
5 such relief, nothing in this Final Order shall be deemed: (a) an admission as to the amount of, basis
6 for, or validity of any claim against the Debtor under the Bankruptcy Code or other applicable
7 nonbankruptcy law; (b) a waiver of the Debtor's or any other party in interest's right to dispute any
8 claim; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that
9 any particular claim is of a type specified or defined in the Motion; (e) a request or authorization to
10 assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy
11 Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on,
12 security interest in, or other encumbrance on property of the Debtor's estate; or (g) a waiver of any
13 claims or causes of action which may exist against any entity under the Bankruptcy Code or any
14 other applicable law. Any payment made pursuant to this Final Order is not intended and should not
15 be construed as an admission as to the validity of any particular claim or a waiver of the Debtor's
16 right to subsequently dispute such claim.

17 9. The amount of each Critical Vendor's claims set forth in connection with a Vendor
18 Agreement shall be used only for purposes of determining such Critical Vendor's claim under this
19 Final Order and shall not be deemed a claim allowed by the Court, and the rights of all interested
20 persons to object to the allowance of such claim shall be fully preserved until further order of the
21 Court. Further, signing a Vendor Agreement containing a claim amount for purposes of this Final
22 Order shall not excuse such Critical Vendor from filing a proof of claim in these cases.

23 10. No claimant who receives payment in full on account of a Critical Vendor Claim is
24 permitted to file or perfect a lien on account of such claim, and any such claimant shall take all
25 necessary action, at its expense, to remove any existing lien relating to such claim.

26 11. Nothing in the Motion or this Final Order, nor the Debtor's implementation of the relief
27 granted in this Final Order, shall be deemed to modify or waive any of the Debtor's rights with
28 respect to goods and services requested or received from the Critical Vendors, including the

1 Debtor's rights to (a) cancel a purchase order, (b) decline the acceptance of goods and services, (c)
2 return any defective, nonconforming or unacceptable good, or (d) contest the amount of any invoice
3 or claims, or liens related thereto, on any grounds.

4 12. Notwithstanding the relief granted in this Final Order, any payment made by the Debtor
5 pursuant to the authority granted herein shall be subject to any order authorizing the Debtor to obtain
6 use of cash collateral.

7 13. The Court finds and determines that the requirements of Bankruptcy Rule 6003 are
8 satisfied and that the relief requested is necessary to avoid immediate and irreparable harm.

9 14. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective and enforceable
10 immediately upon entry hereof.

11 15. The Debtor is authorized to take all actions necessary to implement the relief granted in
12 this Order.

13 16. This Court shall retain jurisdiction with respect to all matters arising from or related to
14 the implementation, interpretation, or enforcement of this Order.

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EXHIBIT C

EXHIBIT C

Critical Vendors

1. Robinson Pharma
2. Haddy Warehousing dba Coast Warehouse / Coast Transportation dba Coast 3PL
3. TLS Transportation Services, Inc.

EXHIBIT D

All Transactions

Type	Date	Num	P. O. #	Due Date	Open Balance	On Hand \$
Invoice	07/15/2024	162942	26495	08/14/2024	44,103.78	\$ 42,493.50
Invoice	07/15/2024	162943	26363	08/14/2024	61,181.14	\$ 42,026.62
Invoice	07/15/2024	162944	26357	08/14/2024	69,793.50	\$ -
Invoice	07/15/2024	162945	26357	08/14/2024	24,702.00	\$ 19,057.80
Invoice	07/16/2024	162946	26453	08/15/2024	108,201.50	\$ 108,201.50
Invoice	07/16/2024	162947	26453	08/15/2024	47,663.20	\$ -
Invoice	07/16/2024	162948	26453	08/15/2024	22,532.48	\$ 22,532.48
Invoice	07/16/2024	162949	26409A	08/15/2024	48,414.65	\$ 48,414.65
Invoice	07/16/2024	162950	26409A	08/15/2024	40,449.00	\$ 36,028.80
Invoice	07/16/2024	162955	26404	08/15/2024	62,435.34	\$ 30,143.34
Invoice	07/16/2024	162956	26424	08/15/2024	36,279.36	\$ 15,622.32
Invoice	07/16/2024	162958	26409A	08/15/2024	32,738.76	\$ 32,738.76
Invoice	07/17/2024	162982	26364	08/16/2024	60,484.23	\$ 28,301.31
Invoice	07/17/2024	162983	26410	08/16/2024	28,281.12	\$ 28,281.12
Invoice	07/17/2024	162984	26410	08/16/2024	55,301.40	\$ 55,301.40
Invoice	07/17/2024	162985	26396	08/16/2024	15,636.60	\$ 15,636.60
Invoice	07/17/2024	162986	26415	08/16/2024	40,191.48	\$ 40,191.48
Invoice	07/17/2024	162987	26442	08/16/2024	84,480.84	\$ 64,826.64
Invoice	07/17/2024	162988	26442	08/16/2024	49,480.82	\$ 49,480.82
Invoice	07/17/2024	162989	26442	08/16/2024	17,448.72	\$ 17,448.72
Invoice	07/17/2024	162990	26357	08/16/2024	9,729.00	\$ 9,729.00
Invoice	07/17/2024	162991	26414	08/16/2024	33,365.82	\$ 33,365.82
Invoice	07/18/2024	163014	26472	08/17/2024	20,322.36	\$ -
Invoice	07/18/2024	163015	26396	08/17/2024	119,077.90	\$ 119,077.90
Invoice	07/19/2024	163084	26394	08/18/2024	109,670.22	\$ 109,670.22
Invoice	07/19/2024	163085	26396	08/18/2024	19,623.60	\$ 19,623.60
Invoice	07/19/2024	163086	26438	08/18/2024	26,254.80	\$ 26,254.80
Invoice	07/19/2024	163087	26438	08/18/2024	22,508.64	\$ 22,508.64
Invoice	07/19/2024	163088	26430	08/18/2024	148,136.58	\$ 85,324.68
Invoice	07/22/2024	163099	26402	08/21/2024	22,536.91	\$ 21,255.19
Invoice	07/22/2024	163100	26402	08/21/2024	13,639.68	\$ 13,639.68
Invoice	07/22/2024	163101	26402	08/21/2024	53,466.00	\$ 5,586.00
Invoice	07/23/2024	163117	26449	08/22/2024	35,076.60	\$ 35,076.60
Invoice	07/23/2024	163118	26432	08/22/2024	62,226.60	\$ 45,088.20
Invoice	07/23/2024	163119	26303	08/22/2024	3,038.04	\$ 3,038.04
Invoice	07/23/2024	163120	26437A	08/22/2024	13,107.70	\$ 13,107.70
Invoice	07/24/2024	163148	26403	08/23/2024	44,541.90	\$ 37,042.11
Invoice	07/24/2024	163149	26408	08/23/2024	48,990.00	\$ 48,824.40
Invoice	07/24/2024	163150	26450	08/23/2024	41,704.00	\$ 28,788.00
Invoice	07/25/2024	163184	26398	08/24/2024	4,170.00	\$ -
Invoice	07/25/2024	163185	26437A	08/24/2024	50,445.00	\$ 50,445.00
Invoice	07/25/2024	163186	26419	08/24/2024	64.92	\$ -
Invoice	07/26/2024	163255	26484	08/25/2024	57,822.10	\$ 57,822.10
Invoice	07/26/2024	163256	26398	08/25/2024	4,170.00	\$ -
Invoice	07/26/2024	163257	26360	08/25/2024	5,401.76	\$ 5,401.76
Invoice	07/26/2024	163258	26440	08/25/2024	73,551.85	\$ 73,551.85
Invoice	07/26/2024	163259	26440	08/25/2024	28,856.40	\$ 28,856.40
Invoice	07/26/2024	163260	26411	08/25/2024	56.40	\$ -
Invoice	07/29/2024	163273	26419	08/28/2024	114,984.14	\$ 109,011.50
Invoice	07/29/2024	163274	26398	08/28/2024	4,236.72	\$ 4,236.72
Invoice	07/29/2024	163275	26447A	08/28/2024	40,077.72	\$ 40,077.72

All Transactions

Type	Date	Num	P. O. #	Due Date	Open Balance	On Hand \$
Invoice	07/29/2024	163276	26548	08/28/2024	31,948.50	\$ 31,948.50
Invoice	07/29/2024	163277	26395	08/28/2024	73,452.60	\$ 73,452.60
Invoice	07/29/2024	163278	26433	08/28/2024	71.04	\$ -
Invoice	07/29/2024	163279	26413	08/28/2024	55.08	\$ -
Invoice	07/29/2024	163280	26395	08/28/2024	56.16	\$ -
Invoice	07/29/2024	163281	26548	08/28/2024	57.00	\$ -
Invoice	07/29/2024	163282	26447A	08/28/2024	46.44	\$ -
Invoice	07/29/2024	163295	TESTING - 6/24	08/28/2024	74,865.00	
Invoice	07/30/2024	163296	26398	08/29/2024	4,203.36	\$ -
Invoice	07/30/2024	163297	26433	08/29/2024	52,374.24	\$ 50,669.28
Invoice	07/31/2024	163342	26508	08/30/2024	56.88	\$ -
Invoice	07/31/2024	163343	26494	08/30/2024	47.28	\$ -
Invoice	07/31/2024	163344	26485	08/30/2024	47.04	\$ -
Invoice	07/31/2024	163345	26445	08/30/2024	34.44	\$ -
Invoice	07/31/2024	163346	26445	08/30/2024	40,880.28	\$ 40,880.28
Invoice	07/31/2024	163347	26411	08/30/2024	98,700.00	\$ 90,136.60
Invoice	07/31/2024	163348	26398	08/30/2024	4,203.36	\$ -
Invoice	08/01/2024	163364	26487	08/31/2024	47.40	\$ -
Invoice	08/01/2024	163365	26405	08/31/2024	80.16	\$ -
Invoice	08/01/2024	163366	26405	08/31/2024	54,983.08	\$ 54,976.40
Invoice	08/01/2024	163368	26398	08/31/2024	4,203.36	\$ -
Invoice	08/01/2024	163369	26445	08/31/2024	16,743.58	
Invoice	08/02/2024	163386	26520	09/01/2024	63.84	\$ -
Invoice	08/02/2024	163387	26413	09/01/2024	110.16	\$ -
Invoice	08/02/2024	163388	26441	09/01/2024	79.68	\$ -
Invoice	08/02/2024	163389	26500	09/01/2024	50.76	\$ -
Invoice	08/02/2024	163390	26398	09/01/2024	9,507.60	\$ 9,507.60
Invoice	08/02/2024	163391	26459	09/01/2024	20,462.40	\$ 20,358.53
Invoice	08/02/2024	163392	26508	09/01/2024	35,597.40	\$ 35,597.40
Invoice	08/02/2024	163393	26447A	09/01/2024	5,015.52	\$ 5,015.52
Invoice	08/05/2024	163397	26520	09/04/2024	63.84	\$ -
Invoice	08/05/2024	163398	26443	09/04/2024	51.84	\$ -
Invoice	08/05/2024	163399	26443	09/04/2024	51.84	\$ -
Invoice	08/05/2024	163400	26444	09/04/2024	57.24	\$ -
Invoice	08/05/2024	163401	26349A	09/04/2024	88,851.35	\$ 17,974.10
Invoice	08/05/2024	163402	26494	09/04/2024	28,537.42	\$ -
Invoice	08/06/2024	163428	26446	09/05/2024	64.20	\$ -
Invoice	08/06/2024	163429	26398	09/05/2024	16.68	\$ -
Invoice	08/06/2024	163430	26398	09/05/2024	8,670.82	\$ 8,537.38
Invoice	08/06/2024	163431	26349A	09/05/2024	11,118.00	\$ -
Invoice	08/06/2024	163432	26409A	09/05/2024	10,419.18	\$ 10,419.18
Invoice	08/07/2024	163437	26448	09/06/2024	90.12	\$ -
Invoice	08/07/2024	163438	26448	09/06/2024	169.80	\$ -
Invoice	08/07/2024	163439	26431	09/06/2024	66.84	\$ -
Invoice	08/07/2024	163440	26349A	09/06/2024	11,118.00	\$ -
Invoice	08/07/2024	163441	26441	09/06/2024	20,298.48	\$ 20,298.48
Invoice	08/07/2024	163442	26500	09/06/2024	44,021.61	\$ 43,514.01
Invoice	08/07/2024	163443	26485	09/06/2024	33,680.64	\$ 33,680.64
Invoice	08/08/2024	163474	26520	09/07/2024	14,108.64	\$ 14,108.64
Invoice	08/08/2024	163476	26402	09/07/2024	28,472.64	\$ 28,472.64
Invoice	08/08/2024	163477	26487	09/07/2024	42,438.80	\$ 42,438.80

All Transactions

Type	Date	Num	P. O. #	Due Date	Open Balance	On Hand \$
Invoice	08/08/2024	163478	26431	09/07/2024	47,835.16	\$ 44,225.80
Invoice	08/08/2024	163479	26349A	09/07/2024	11,118.00	\$ -
Invoice	08/08/2024	163480	26402	09/07/2024	63.84	\$ -
Invoice	08/08/2024	163481	26481	09/07/2024	44.88	\$ -
Invoice	08/08/2024	163482	26481	09/07/2024	86.16	\$ -
Invoice	08/08/2024	163483	26481	09/07/2024	47.28	\$ -
Invoice	08/09/2024	163521	26510	09/08/2024	82.92	\$ -
Invoice	08/09/2024	163522	26480	09/08/2024	81.96	\$ -
Invoice	08/09/2024	163523	26480	09/08/2024	160.20	\$ -
					3,110,585.30	\$ 2,419,343.87
					3,110,585.30	

Product delivered after July 20, 2024

1,652,096.46